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Audits Division

OFFICE OF THE CITY ATTORNEY:

The San Francisco League of
Urban Gardeners Mismanaged
Grant and Contract Funds From
the City

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Audit Number 03005
July 22, 2004

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CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF THE CONTROLLER

Ed Harrington
Controller

Monique Zmuda
Deputy Controller

July 22, 2004

Audit Number 03005

Dennis Herrera, City Attorney
Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Dear Mr. Herrera:

The Office of the Controller (Controller) presents its report on the financial review of the grants and contracts that the San Francisco League of Urban Gardeners (SLUG) has with the City and County of San Francisco (City). This report also presents the results of investigating several allegations that the Office of the City Attorney (City Attorney) asked the Controller's Audits Division to assess.

The auditors found that SLUG mismanaged some of its city funds and as a result, owes the City \$71,978 for overbilling some city departments and receiving overpayments from the departments in connection with two grants and one contract that the agency had with the City in fiscal year 2002-03. In investigating the allegations, the auditors substantiated the allegation that SLUG has not paid its payroll taxes, and owed \$643,003 in payroll taxes as of June 30, 2003, not including interest or penalties. The auditors also found that the Department of Public Works (Public Works) improperly used SLUG's contract with Public Works to purchase a \$62,508 portable building for Public Works own use. There were a number of other allegations that auditors either could not substantiate or found that they did not violate the terms of SLUG's agreements with the City.

The Department of Public Works' response and SLUG's response are attached to this report. The Controller's Audits Division will be working with SLUG to follow up on the status of the recommendations made in this report.

Respectfully submitted,

Ed Harrington
Controller

SUMMARY

RESULTS IN BRIEF

Audit Highlights...

We found the following during our review of the San Francisco League of Urban Gardeners (SLUG):

- ☑ ***SLUG overbilled the Department of Public Works by \$22,635.***
 - ☑ ***SLUG owes the Library \$33,743 and Community Development \$15,600 for overpayments that SLUG did not earn.***
 - ☑ ***SLUG overstated its net income by more than \$275,000 for 2001.***
 - ☑ ***SLUG owed taxing authorities \$643,003 of payroll taxes at June 30, 2003.***
 - ☑ ***\$62,508 of SLUG's contract funds were improperly used by Public Works to buy a portable building for itself.***
-

Our review revealed that the San Francisco League of Urban Gardeners (SLUG) mismanaged some of its city grants and contracts and overbilled or received overpayments from some city departments, and as a result, owes the City \$71,978. Further, SLUG does not have complete and accurate accounting records, and does not maintain proper internal controls over its cash or its financial reporting.

SLUG describes itself as a grassroots organization that educates and employs individuals while providing communities with urban gardening. In July 2003, SLUG announced that it would be closing down and reorganizing in an attempt to avoid bankruptcy. As a result, the Office of the City Attorney (City Attorney) asked the Controller's Audits Division to perform a financial review of SLUG's invoices to the City under its grant and contract agreements with SLUG for fiscal year 2002-03 services.

Our review of SLUG's accounting records showed that SLUG does not have an adequate financial accounting system in place. We determined that SLUG failed to accurately record all transactions and properly allocate its expenses for each of its city grants. Also, SLUG overstated its net income for 2001 by more than \$275,000 in its audited financial statements. In reviewing the accounting records we also noted that SLUG lacks many basic policies, procedures and practices for internal and administrative control that organizations follow to help ensure that the organization safeguards its assets and reports accurately on its operations.

Finally, we investigated several allegations that whistleblowers made to the Office of the City Attorney, many of which we could not substantiate. We did verify, however, the allegation that SLUG owed a large amount of unpaid payroll taxes. As of June 30, 2003, SLUG owed \$643,003 of withheld and accrued payroll taxes, not including interest and penalties. We also substantiated the allegation that the Department of Public Works (Public Works) improperly used SLUG's contract with Public Works to purchase a \$62,508 portable building for Public Works' own use.

INTRODUCTION

BACKGROUND

The Office of the City Attorney (City Attorney) asked the Controller's Audits Division (division) to perform a financial review of the contracts and grants that the San Francisco League of Urban Gardeners (SLUG) has with the City and County of San Francisco (City). The City Attorney made the request, in part, because of SLUG's announcement in July 2003 that it would be closing and attempting a reorganization to avoid bankruptcy. In addition to reviewing the status of payments by the City and SLUG's compliance with the terms of city contracts, the division also investigated allegations identified by the City Attorney.

SLUG describes itself as a grassroots organization that empowers communities and individuals with education and employment. Its goal is to improve the quality of life through urban gardening. SLUG's programs include community gardens, horticultural education, landscape construction, open space maintenance, habitat restoration, job training, youth programs, and membership services.

SLUG's funds come from many sources, including the City's general fund, the federal Housing and Urban Development Department, and memberships from individuals. Most of its revenue comes from government sources, but some of its work is performed on a fee for service basis for non-government customers. During fiscal year 2002-03, SLUG had grant agreements with 15 different city departments and offices from which it received approximately \$2,204,000. Some of these grant agreements were for services provided by smaller organizations for whom SLUG served as fiscal agent. Among these organizations are the Southeast Neighborhood Jobs Initiative Roundtable, Bayview Safe Haven, and What About Me? Respite Programs. SLUG, as fiscal agent for these agencies, provided them with accounting and reporting services.

On July 22, 2003, SLUG announced that it was ceasing operations effective immediately. According to the president of SLUG's board of directors (board), management turnover combined with a weakening economy had led to a series of financial crises. Rather than operate in an insolvent condition, the board decided to cease operations while it considered its options. On August 13, 2003,

SLUG's board president, who was elected to the board on that date, issued a rescue plan for SLUG, which detailed the organization's plans to sell one of its gardens, pay off its debts, and obtain the City's support for fiscal year 2003-04 to continue to fund programs.

SCOPE AND METHODOLOGY

The purpose of our review was to determine whether SLUG's claims for reimbursements for city grants and contracts during the period from July 1, 2002, through June 30, 2003, were accurate and based upon actual services SLUG provided. As part of our review, we determined whether SLUG had adequate financial and management systems in place to manage its operations and ensure that it complied with the terms of its grants and contracts with the City.

To conduct the financial review, we selected five agreements from the City's Public Library, Department of Public Works (Public Works), Mayor's Office of Community Development (Community Development), Recreation and Park Department, and the Department of the Environment for review. The payments made by the City for the grants and contracts we reviewed represented \$1,796,549 out of the \$2,204,257 total city payments paid to SLUG in fiscal year 2002-03. We examined applicable terms of the contracts and grants and interviewed appropriate personnel from SLUG and city departments.

For each contract or grant, we examined selected invoices from one month of the 12-month period under review and the associated charges submitted by SLUG for reimbursement of expenditures to evaluate SLUG's compliance with the city agreements. We traced these charges to invoices, cancelled checks, and payroll records. After our initial review, we expanded our testwork to test one additional month for the grant from Community Development and transactions for all 12 months for the contracts and grants from Public Works.

The City Attorney also requested that we investigate certain allegations raised by employees of SLUG and the City related to improper expenditures and possible failure of one city department to maintain an arms-length relationship with SLUG.

To conduct our investigation, we interviewed current and past SLUG staff, reviewed minutes of meetings of SLUG's board of directors, and examined payroll and disbursement records. We also reviewed various federal information filings by several

organizations to determine what, if any, relationship exists between SLUG and those organizations and individuals that whistleblowers cited in their allegations. SLUG's lack of complete and accurate accounting records and its failure to retain staff due to program closings and high turnover limited our ability to either substantiate or disprove some allegations we investigated.

AUDIT RESULTS

THE SAN FRANCISCO LEAGUE OF URBAN GARDENERS IMPROPERLY BILLED THE CITY FOR SOME COSTS AND RECEIVED ADVANCES IT DID NOT EARN

Although the San Francisco League of Urban Gardeners (SLUG) correctly billed city departments for one grant and two contracts of the five grants and contracts that we reviewed, we found that SLUG overbilled the City \$22,635 under the contract it receives from the Department of Public Works (Public Works). Also, SLUG owes the San Francisco Public Library (Library) \$33,743 for unearned costs and owes the Mayor's Office of Community Development (Community Development) \$15,600 for an advance given to SLUG that it did not earn.

SLUG Correctly Billed the City for Three of Its City Agreements

In three of five agreements we examined, we found that SLUG properly billed city departments for the direct costs of services SLUG provided under the terms of its grants and contracts. We examined a sample of SLUG's invoices to city departments under its agreements with the Mayor's Office of Community Development, the Recreation and Park Department, and the Department of the Environment. We found that SLUG billed correct amounts in our tests of salaries and wages and other direct expenses. The total amount of reimbursements made in fiscal year 2002-03 is \$623,312 for the three agreements.

SLUG Improperly Billed Some Costs to the Department of Public Works

By not properly charging Public Works for appropriate and actual costs, SLUG violated the terms of its funding agreement. SLUG made errors on several of its invoices to Public Works, which resulted in overpayments to SLUG for wages and benefits of \$22,635. Further, SLUG could not provide documentation for other costs of \$18,273.

SLUG improperly billed the wages of its human resources manager to Public Works from July 2002 through November 2002. On its invoices, SLUG identified these charges as the salary costs of a case manager. However, the human resource manager did not conduct any activities as a case manager. SLUG improperly billed Public Works a total of \$21,756 in wages and benefits. According to Jonathan Gomwalk, SLUG's executive director who resigned in April 2004, the decision to bill these wages and benefits was made by the previous executive director.

We found, in addition, that SLUG incorrectly billed \$879 in excess wages and benefits for its transitional employment program assistant. Instead of billing Public Works \$2,747 for the actual salary and benefits for this staff position for November and December 2002, SLUG billed Public Works for the budgeted salary and benefits for the two months, or \$3,626.

We also noted that SLUG billed Public Works \$18,273 for costs for which SLUG had no documentation to support that it had actually incurred and paid for these expenses. According to the chief financial officer at Public Works, these funds were intended to pay SLUG a reasonable management or coordination fee for service to at-risk and incarcerated youth referred by the City's Juvenile Probation Department, and SLUG was not expected to bill for them on a cost reimbursement basis. However, Public Works should only include costs in its contract budgets that it can subsequently verify were properly spent.

Slug Owes the City Some Grant Funds That Slug Received But Did Not Earn

The San Francisco Public Library (Library) and the Mayor's Office of Community Development (Community Development) each awarded cost reimbursement grants to SLUG that, upon termination, left SLUG owing a total of \$49,343 to the two departments for unearned payments.

During the course of its multi-year grant agreement with SLUG, the Library paid SLUG \$33,743 more than SLUG spent on the tool-lending program that the Library funded. During the three-year grant period, the Library paid SLUG each month an estimated amount rather than actual costs. SLUG reported its actual program costs each quarter to the Library. When the program ended on June 30, 2003, SLUG's final invoice showed a balance of \$33,743 where payments from the Library exceeded SLUG's documented expenses for the full contract period.

In addition, SLUG received an advance of \$38,000 from Community Development in connection with its \$229,160 grant for 2002-03.

On September 17, 2003, Community Development's director wrote that it would suspend all payments to SLUG if SLUG did not submit audited financial statements for calendar year 2002 to Community Development by October 1, 2003. Community Development had already extended SLUG's grant to September 30, 2003, as requested by the executive director of SLUG. Furthermore, the director wrote that if Community Development did not receive the statements by October 1, 2003, Community Development would not be able to enter into a new grant agreement with SLUG for the 2003 Community Development Block Grant Program. On February 26, 2004, Community Development's fiscal director notified SLUG that Community Development was terminating the grant effective immediately and requested repayment of the remaining \$15,600 advance that SLUG did not earned.

SLUG MANAGES POORLY ITS FINANCIAL OPERATIONS

The San Francisco League of Urban Gardeners could not adequately perform its financial duties. We found that SLUG misstated its net income for 2001, has not submitted the required single audit for 2002, and has not maintained accurate accounting records in 2003.

SLUG Overstated Its Net Income for 2001 by More Than \$275,000

SLUG overstated its revenues in its 2001 audited financial statements by \$275,124 because it recognized as income the full amount of a \$324,074 contract amendment from Public Works. However, it had not earned the entire amount as of December 2001, and should only have recognized the \$48,950 it had actually earned through that date. This error resulted in SLUG incorrectly showing net income of \$102,382 rather than correctly showing a net loss of \$172,742 for 2001. If SLUG had correctly represented its financial position, its board of directors and city departments providing funding to SLUG may have been alerted sooner that SLUG was in serious financial difficulty.

SLUG Has Not Submitted Its Financial Statement Audit for 2002

SLUG did not provide to Community Development and Department of Human Services (Human Services) the required single audit of SLUG's operations for 2002. As a recipient of federal funds, SLUG is required to undergo an audit according to requirements of federal OMB Circular A-133 *Audits of States, Local Governments, and Non-Profit Organizations* (A-133) if SLUG received in total more than \$300,000 in federal funds. SLUG received more than \$300,000 in federal funds through grants from the Community Development and Human Services (Human Services). However, SLUG has not submitted the required A-133 audit report to Community Development and Human Services. On January 5, 2004, Community Development's director informed SLUG that Community Development cannot proceed with any grant payments or award new grants with SLUG without the required A-133 audit for 2002.

SLUG's Accounting Records for 2003 Are in Disarray

When we examined SLUG's accounting records for January 1, 2003, through June 30, 2003, we noted that they contain errors and do not appear to be supported by source documents such as bank reconciliations and payroll tax returns. For example, many of the beginning balances of SLUG's asset and liability accounts at January 1, 2003, do not reflect the ending balances for those accounts as of December 31, 2002, as shown in the following table:

Table

| | Ending Balance Per 12/31/02 Financial Statements | Beginning Balance at 1/1/03 Per Accounting Records | Difference |
|---|---|---|-------------------|
| Cash In Bank-Payroll Account | (\$15,074) | \$51,709 | \$66,783 |
| Accounts Receivable | 418,426 | 304,315 | (114,111) |
| Payroll Taxes Withheld | 259,290 | 0 | 259,290 |
| Fund Balance | (60,119) | (288,002) | (227,883) |

SLUG's interim accounting manager could not provide an explanation why the balances did not match. SLUG was also not able to provide us any bank reconciliations for the period from January 2003 through June 2003, nor could it provide us accounting records which showed the same amount of wages as shown on the payroll tax returns prepared by SLUG's outside payroll service for the first two quarters of 2003.

Many of the problems we identified can be attributed to SLUG assigning accounting responsibilities to someone not experienced in accounting matters. According to Jonathan Gomwalk, SLUG's executive director who resigned in April 2004, SLUG decided to perform its accounting function in-house starting in January 2003, rather than continue paying an outside consultant to keep its accounting records and produce its financial statements. However, the staff person assigned these responsibilities did not have a degree in accounting or any equivalent professional experience. According to minutes from SLUG's July 22, 2003 board of directors meeting, this employee resigned from the organization in July of 2003.

SLUG Has Poor Internal Control Procedures and Practices

SLUG lacks a number of the basic policies, procedures and practices for internal and administrative control that organizations follow to help ensure that the organization safeguards assets and that the use of and access to assets are in accordance with management's authorization.

We found that SLUG does not have formal written financial policies or procedures and, during fiscal year 2002-03, lacked qualified financial staff to perform SLUG's accounting and financial functions. We also identified instances where checks issued to an administrative staff person were signed by that person. This practice increases the risk that inappropriate payments may be made or errors not identified. In addition, SLUG only requires one signature on its checks. Requiring two signatures is a common internal control that may decrease the risk of loss of funds through errors or irregularities.

We also found that SLUG's tool-lending program supported by a grant from the Library did not have adequate controls in place to prevent losses of fines collected and to ensure that SLUG properly accounted for program expenses. According to the ex-director of the tool-lending program, all tool-lending staff had access to the cash box, in which staff retained fines collected, and day-to-day

program expenses were paid with cash out of the cash box. The ex-director also stated that any tool-lending staff person could reduce the amount of a borrower's fine to below the amounts on the tool-lending center's posted schedule of fines without approval. Fines received were recorded in a software program at the tool-lending site, but SLUG did not retain any records from the software. According to the ex-director of the program, no one either at the tool-lending library or in SLUG's administration attempted to determine how much cash should have been in the cash drawer at any point.

Without any record of the amount in the cash drawer at any point, and no controls over the accuracy of the amount of fines revenue that was collected or reported, we were unable to determine if SLUG correctly reported either the revenue from fines collected or the amount and types of operating expenses incurred at the tool-lending library. In reviewing SLUG's accounting records for what appeared to be checks from individuals that were included in the tool-lending revenue account, SLUG recorded only \$73 in possible fines, or \$698 less than the \$771 reported on the June 2003 quarterly report that SLUG submitted to the Public Library. Our review of SLUG's expense account for the tool-lending library showed only \$559, or \$462 less than the \$1,021 that SLUG reported on the June 2003 quarterly report.

SLUG DOES NOT COMPLY WITH FEDERAL GUIDELINES FOR MAINTAINING FINANCIAL ACCOUNTING RECORDS

During 2002 SLUG received federal pass-through funds from Community Development and Human Services. To use these funds, SLUG must comply with federal guidelines on accounting for the funds. However, we found that SLUG does not comply with federal guidelines for charging indirect costs and for charging program staff wages.

While federal guidelines require an agency to charge administrative expenses, or indirect costs, to cost centers based on the relative actual benefits received by each cost center, usually a specific contract or grant, SLUG records all of its non-personnel indirect costs to a category of expenses it identifies as operating costs that it does not charge to cost centers appropriately. For example, although SLUG billed administrative costs to Community Development on each invoice, along with direct costs such as direct personnel costs and materials, there were no administrative costs allocated in the accounting records to the cost

center for the Community Development grant. Since SLUG is the recipient of federal funds, it is required to comply with OMB Circular A-122, *Cost Principles for Non-Profit Organizations*, and should use one of the circular's acceptable indirect cost and shared cost methodologies to allocate its various actual administrative costs to all its contracts and grants.

Furthermore, we could not determine on what basis SLUG allocated program staff wages to individual contracts and grants. For example, within SLUG's Design and Restoration Division, four program staff provided services to five different projects that were funded by Community Development and seven projects that were funded by Recreation and Parks. In addition to these twelve projects funded by city departments, the Design and Restoration Division provided billable services to private entities on a fee for service basis. We could not determine how much time SLUG staff worked on any one grant or contract because SLUG does not require its staff to record on timesheets the hours they work each week. In addition, SLUG does not allocate to contract and grant cost centers the wages for these staff in its accounting records.

WE SUBSTANTIATED SOME ALLEGATIONS MADE TO THE CITY ATTORNEY'S OFFICE CONCERNING SLUG'S ACTIVITIES

Among a number of allegations that whistleblowers made to the Office of the City Attorney, we were able to substantiate three. One allegation we substantiated was that SLUG owed federal and state taxing agencies for employees' payroll taxes. We found that SLUG owed \$643,003 in payroll taxes as of June 30, 2003, not including interest or penalties. The \$520,860 federal portion of this amount has since been paid by SLUG. We also substantiated a second allegation that Public Works improperly used funds from SLUG's contract to buy a portable building for Public Works. Also, we corroborated that former SLUG executive director Mohammed Nuru, who now works for Public Works, remained the contractor of record on SLUG's contractors license long after he no longer worked for SLUG.

Slug Failed to Pay Payroll Taxes from The Funds Provided by the City

In paying SLUG to provide various services through city grants and contracts, city departments included as payment the portion of staff wages that should be remitted to taxing authorities as payroll

taxes. However, while SLUG withheld the payroll tax amounts from its employees, it failed to pay the taxes to federal and state taxing authorities. At June 30, 2003, SLUG owed federal and state taxing authorities approximately \$568,614 for payroll taxes withheld from employee paychecks, including the employer share of payroll taxes on wages, through June 30, 2003. Furthermore, SLUG owed \$74,389 to the U. S. Unemployment Services Trust, which administers SLUG's unemployment obligations. Such trusts enable nonprofits to take advantage of a federal law that allows charitable organizations to opt out of state-run unemployment programs in favor of potentially more cost-effective programs such as self-insuring or joining a grantor trust.

According to Jonathan Gomwalk, SLUG did not have the cash flow since July of 2002 to pay its payroll tax liabilities. However, SLUG paid its June 30, 2003 federal payroll tax obligation of \$520,860 excluding interest and penalties to the Internal Revenue Service out of proceeds from the sale of its Page Street Garden property on April 7, 2004. The Internal Revenue Service also collected out of the proceeds \$66,711 in interest and penalties on that amount. These payments leave \$47,755 of unpaid state payroll taxes due as of June 30, 2003, excluding interest and penalties. Also, SLUG still owes \$74,389 in unemployment payments.

Public Works Improperly Used Some of SLUG's Contract Funds for Public Work's Own Use

Public Works improperly used funds from a contract with SLUG to purchase a portable building for the department's own use. Further, SLUG participated in allowing Public Works to use SLUG's contract to pay for the portable building. In substantiating the allegation that Public Works used its contract with SLUG to purchase the portable building, we found that SLUG's April 2001 invoice to Public Works, which was paid by Public Works in May 2001, included \$62,508 for a portable building. The purpose of the contract was to recruit and train up to 50 persons on public assistance to perform full-time street cleaning and related services. The contract budget was amended on December 20, 2001 to include \$62,508 for a training trailer in the equipment budget line item. Although the budgeting and acquisition of a training trailer would have been in keeping with the stated scope of work in SLUG's contract, we found that the building is located at a Public Works site, and that the certificate of title for the portable building lists Public Works as the registered owner.

According to the director of community programs at Public Works, the portable building is in use as an employee resource center

housing a Public Works equal employment officer, some Public Works training staff, and the Public Works maintenance yard's public information officer. In addition, according to the director of community programs, the building is the site of meetings and trainings, some of which are attended by SLUG staff. Furthermore, the acting deputy director of engineering at Public Works stated that the contract seemed to be an appropriate and expedient funding source for the building because Public Works was evaluating its relationship with SLUG and the possible creation of other transitional employment programs. However, the acting deputy director of engineering also stated that the building has never been used for purposes related to SLUG's contract.

SLUG Continued to Use Improperly the Contractor's License of Its Former Director Long After He Became an Employee of the Department of Public Works

We also substantiated the allegation that former SLUG Executive Director Mohammed Nuru, who was hired by Public Works in September of 2000, remained the contractor of record on SLUG's state contractor's license until May 31, 2003. Effective that date, Jonathan Gomwalk submitted a notice with the California Contractors State License Board (licensing board), stating that the former SLUG executive director was disassociated with SLUG. According to Mr. Gomwalk, none of SLUG's contracts or grants in 2002-03 required that SLUG have a contractor licensed with the licensing board on staff. He further explained that SLUG had in the past registered with the licensing board in anticipation of providing services that SLUG never did bid for.

WE FOUND NO MERIT IN ONE ALLEGATION AND COULD NOT SUBSTANTIATE OTHER ALLEGATIONS MADE TO THE CITY ATTORNEY'S OFFICE

We did not find merit in one allegation, and were unable to completely investigate another five allegations because of the poor condition of SLUG's accounting records. The allegation without merit involved the SLUG former executive director who held that position between the time Mr. Nuru and Mr. Gomwalk each served as executive director. It was alleged that this executive director had received a large severance package. The allegations we could not either disprove or substantiate due to insufficient evidence include a former executive director now employed at Public Works continuing to be involved with SLUG during city work hours, a

former Public Works employee receiving contractor payments from SLUG while still in the City's employ, SLUG engaging in questionable transactions with nonprofit organizations, SLUG billing Public Works for excessive uniform expenses, and SLUG billing Public Works for excessive fuel expenses.

One Allegation We Investigated Had No Merit

We investigated whistleblowers' allegations to the City Attorney that SLUG's executive director prior to Mr. Gomwalk received from SLUG a large severance package. We determined from payroll documentation provided to us that SLUG did not provide any severance payments to the former executive director. The former executive director gave notice of her resignation at the September 26, 2002, board of directors meeting, with an effective resignation date of October 11, 2002. SLUG paid the resigning executive director as part of the payroll for the pay period ended October 11, 2002, an amount that represented regular earnings for September 28, 2002, through October 11, 2002, plus two weeks vacation.

We Could Not Substantiate Five Allegations

We could not determine whether former SLUG executive director Mohammed Nuru continues to be involved with SLUG during city work hours, although he did not have duties in his new job that required it.

In reviewing SLUG's records, we found that SLUG's board minutes did not reflect any attendance by Mr. Nuru at meetings for July 2002 through August 2003. Further, SLUG's records do not show that Mr. Nuru signed checks or other financial documents during fiscal year 2002-03. Mr. Nuru's name also does not appear in payroll records during 2002-03 or on federal forms reporting non-employee compensation for 2001. We could not examine the federal reporting of non-employee compensation for 2002 because SLUG failed to submit this report.

We also investigated the allegation that SLUG paid one former Public Works employee as a contractor while still in the City's employ. SLUG made one payment in 2001 that was supported by an invoice for services that did not commence until after that Public Works employee left his position with the City. SLUG's 2001 report of miscellaneous income payments, including non-employee compensation, to taxing authorities showed only the amount of that one check to the former employee. However, we

were unable to examine SLUG's accounting records for the years prior to 2002 and are therefore unable to state conclusively that there were no earlier payments.

We could not completely disprove, due to SLUG's incomplete 2003 accounting records, the allegation that SLUG engaged in questionable transactions with several nonprofit organizations. Among the organizations named by the whistleblowers in allegations were San Francisco Clean City Coalition (Clean City), Girls 2000, and the San Francisco Study Center (Study Center). SLUG acted as a fiscal agent for two of the three organizations. As a fiscal agent, SLUG had responsibility for providing accounting and reporting services for those organizations. The third organization acted as a fiscal agent for SLUG.

SLUG provided fiscal services to Clean City in fiscal year 2001. We also found that Clean City was a sub-lessee of SLUG at the tool-lending library, paying \$425 per month for the use of the facilities where the tool-lending library was located. Jonathan Gomwalk is reported as the president of Clean City's board of directors on its 2001 *Return of Organization Exempt From Income Tax*. Mohammed Nuru, the former SLUG executive director who now is employed at Public Works is listed as a director of Clean City.

SLUG also provided fiscal services to Girls 2000 in 2000-01. On March 5, 2001, Mohammed Nuru signed a conference reservation for Girls 2000. The 2001 *Return of Organization Exempt From Income Tax* for Girls 2000 does not include Mr. Nuru on Statement 4, "List of Officers, Directors, Trustees, and Key Employees." However, the report does not identify any individual as the president.

The Study Center is an independent nonprofit organization that is now serving as the fiscal agent for SLUG for its contract with Public Works. Effective August 2003, Public Works began paying contract funds to the Study Center to be used to pay for expenses related to SLUG's services to Public Works.

We also could not substantiate whether SLUG billed Public Works for excessive uniform expenses that should not have been billed under SLUG's Public Works contract. SLUG submitted a \$25,385 invoice to Public Works for reimbursement for 200 uniforms in November of 2001. Each uniform set included an overall, two t-shirts, a jacket and a hat. Although SLUG's multi-year contract with Public Works included funding for uniforms, it does not appear as though uniforms were included in SLUG's budget for

fiscal year 2001-02. Public Works reimbursed SLUG for the uniforms.

SLUG's contract with Public Works covering July 1998 to June 2002 contained \$90,847 of budgeted miscellaneous costs, which were described as uniforms, rain gear, gloves, and miscellaneous equipment in the contract budget. However, the 2001-02 invoices that we examined do not show either budget or year-to-date information for expenses. This lack of comprehensive record-keeping prevents us from determining for certain if all of the budgeted uniform costs from prior budget periods had been exhausted.

Finally, we could not completely disprove the allegation that SLUG billed Public Works for excessive fuel expenses that should not have been reimbursed under SLUG's Public Works contract. We examined supporting documentation for all expenses that SLUG billed to Public Works during fiscal year 2002-03. SLUG paid its fuel expenses in cash during most months, and fully supported its expenses by receipts. The amounts charged to fuel each month ranged from \$520 to \$1,400.

RECOMMENDATIONS

To ensure that the San Francisco League of Urban Gardeners (SLUG) fulfills its contract and grant obligations with the City, it should take the following actions:

- Repay the Department of Public Works \$22,635 for overbillings.
- Repay the San Francisco Public Library \$33,743 for estimated payments that it did not earn.
- Repay the Mayor's Office of Community Development \$15,600 for the remaining amount of the contract advance that it did not earn.
- Submit past due payroll taxes to the State and SLUG's unemployment trust.

To ensure that SLUG is financially sound enough to accept grant agreements and contracts from the City and County of San Francisco, SLUG should take the following actions:

- Retain the services of a certified public accountant to perform the required OMB Circular A-133 audit for 2002.
- Recreate the financial records for the calendar year 2003.
- Hire a finance team to implement an accounting system with adequate internal controls.
- Adopt an appropriate cost allocation plan.
- Organize the agency's accounting records to accommodate accounting for each of SLUG's sources of funding.

To ensure that the Department of Public Works (Public Works) properly manages public funds, it should take these steps:

- Include only costs that can be documented in cost reimbursement contract budgets.
- Use public funds only for the purpose designated in the approved contract.

We conducted this review according to standards established by the Institute of Internal Auditors. We limited our review to those areas specified in the scope section of this report.

Staff: Elisa Sullivan, Audit Manager
Deborah Gordon

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DEPARTMENT OF PUBLIC WORKS' RESPONSE TO THE AUDIT

City and County of San Francisco



Gavin Newsom, Mayor
Edwin M. Lee, Director



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Department of Public Works
Deputy Director for
Financial Management and Administration
1 Dr. Carlton B. Goodlett Place, Room 340
San Francisco, CA 94102
Robert J. Carlson, Deputy Director

July 19, 2004

Ed Harrington, Controller
Room 316 City Hall
1 Dr. Carlton B. Goodlett Pl.
San Francisco, CA 94102

Dear Mr. Harrington:

Thank you for the opportunity to respond to your draft report dated July 16, 2004 concerning the review of the San Francisco League of Urban Gardeners (SLUG). Following is the response of our department.

Audit Report, page 12, "Public Works Improperly Used Some of SLUG's Contract Funds for Public Work's Own Use", paragraph one - "... Although the budgeting and acquisition of a training trailer would have been in keeping with the stated scope of work in SLUG's contract, we found that the building is located at a Public Works site, and that the certificate of title for the portable building lists Public Works as the registered owner."

DPW Response: Originally it was the intent of DPW to use the training trailer as a resource center to provide training and employment information for the SLUG public assistance employees and DPW employees. To purchase the training trailer, the SLUG contract was amended on December 20, 2001 with specific reference to the contract scope of work language that stated:

"Goals

1. *Provide program participants who have successfully completed the program with the job skills and transitional work experience needed to become employable in general cleaning services industries.*

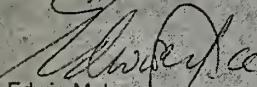
Services Requested

2. *Provide training and basic supervision in environmental services and oversee the activity in transitional jobs.*
15. *Advise transitional workers of other employment opportunities."*

Although the amendment and purchase were initially consistent with the contract language, DPW agrees the training trailer has been used primarily for department employee training and related uses; and was not used for SLUG participants to the extent that would have ultimately justified its purchase through the contract.

We concur with your recommendations for DPW and will only include costs that can be documented in cost reimbursement contracts; and use funds only for the purpose designated in approved contracts.

Sincerely,


Edwin M. Lee
Director of Public Works

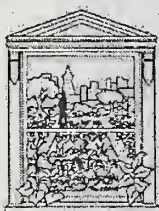
"IMPROVING THE QUALITY OF LIFE IN SAN FRANCISCO" We are dedicated individuals committed to teamwork, customer service and continuous improvement in partnership with the community.

Customer Service

Teamwork

Continuous Improvement

SAN FRANCISCO LEAGUE OF URBAN GARDENERS' RESPONSE TO THE AUDIT:



SAN FRANCISCO LEAGUE OF URBAN GARDENERS (SLUG)

2088 OAKDALE AVENUE, SAN FRANCISCO, CALIFORNIA 94124
TELEPHONE (415) 285-SLUG FAX (415) 285-7586

July 9, 2004

Edward M. Harrington
Controller
City and County of San Francisco
City Hall, Room 316/1
Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Dear Mr. Harrington:

Your office did an excellent job investigating the San Francisco League of Urban Gardeners' historical accounting controls. Your report substantiates last year's findings by our reconstituted board and provides a useful checklist as we continue to rebuild the organization.

As a board, although we were dismayed last year to find poor record keeping throughout the organization, we were heartened by the fact that of the \$645,635 in billings your office was able to review, only \$22,635 (3.5%) was found to have been billed improperly. We also were gratified that no explicit finding of malfeasance or private, unlawful or personal benefit was made and that many of the "whistleblower" claims made by disgruntled former employees could be dismissed as without merit.

With regard to the funds allegedly owed to the San Francisco Public Library, we have asked for but not received the Library's reimbursement records. Therefore, we cannot adequately address your claim that SLUG owes the Library money. We would like to point out, however, that we have donated thousands of dollars worth of tools to the Library that were not paid for with City or Library funds. We concur with your finding that both City administrators and SLUG's board relied upon an audit by an external accounting firm that reported income \$275,000 higher than it actually was.

In the past year, SLUG has paid its Federal taxes in full, successfully preserved the Page Street Garden as public open space, completed the construction of Brooks Park Community Garden (on budget and on time), and kept up to 20 low income and formerly homeless people fully employed.

In short, while we still have a long way to go to put the organization back on its feet, we are pleased that no "smoking gun" was found. No one pocketed money, bought fancy cars, or personally enriched him or herself at the City's or SLUG's expense. The hole into which SLUG fell was dug by its inability to track and pass along costs to the City, and by incompetence on the part of management staff that have long since departed.

Over the past year, SLUG has been the beneficiary of hundreds of hours of hard work by dozens of committed public servants and community leaders like you and your staff. We thank you for your service to the organization and look forward to continuing to regain the city's trust and to making San Francisco an even more beautiful city.

Sincerely,

ROGER GORDON
Board President

cc: Mayor
Board of Supervisors
Civil Grand Jury
Budget Analyst
Public Library

